



MELBOURNE POLICE DEPARTMENT

David Gillespie, Chief of Police

OFFICE OF THE CHIEF OF POLICE

DATE: May 8, 2019

TO: Chief of Police David Gillespie

FROM: Detective Sergeant Hetal Desai
Internal Affairs Unit

5/21/19
136 Approved - Discussion of SRO's
Ref. Printing in Private.
#000 361

SUBJECT: SI-2019-004

I have reviewed the investigation completed during this complaint by Sgt. Rau. A thorough investigation was completed and I have concluded that the case be closed as **Exonerated** for DGO 1.2.3 Legal Constraints and DGO 26.2.6 Professional Demeanor for Ofc. Lopez.

If you have any questions regarding this information please let me know and I will make myself available to you.

ATTACHED:

- Investigative package submitted by Sgt. Jeff Rau I.d. #331



MELBOURNE POLICE DEPARTMENT

David Gillespie, Chief of Police

OFFICE OF THE CHIEF OF POLICE

DATE: April 4, 2019

TO: Lt. Cheryl Trainer

FROM: Sergeant Hetal Desai
Internal Affairs Unit

SUBJECT: Supervisory Inquiry Assignment SI-2019-004

Please conduct, or have conducted by Ofc. Jesus Lopez's immediate supervisor, a supervisory inquiry into the complaint by Mr. Joshua Taylor. I have already entered this information into the Administrative Investigations Management system.

Please have the completed investigation back to the Internal Affairs Unit by the due date for this inquiry, which is May 17, 2019.

If you have any questions or concerns please let me know of any assistance I can provide.

Thank you.

Distribution: Case File




MELBOURNE POLICE DEPARTMENT

David Gillespie, Chief of Police

OFFICE OF THE CHIEF OF POLICE

SUPERVISORY INQUIRY EMPLOYEE NOTIFICATION

To: Officer Jesus Lopez

From: David Gillespie
Chief of Police 

Date: April 4, 2019

Subject: Supervisory Inquiry SI-2019-004

A supervisory inquiry is being conducted regarding a complaint filed by Joshua Taylor alleging that you did not have legal justification when you issued a civil citation to his son on March 28, 2019.

Sergeant Hetal Desai will be coordinating the supervisory inquiry for the Department as a result of this complaint.

The inquiry will be conducted in accordance with the procedures outlined in Department General Orders. Your rights and responsibilities as an employee in this investigation are outlined in Department General Order, the "Police Officer Bill of Rights", **Florida State Statutes 112.532**, and the provisions of the current collective bargaining contract.

You are reminded that Department General Orders require all personnel to treat information concerning complaints and investigations with the utmost confidentiality.

RECEIPT

This is to verify that **Ofc Jesus Lopez** has received written notification in reference to the Supervisory Inquiry: **SI-2019-004**. **This notification is in accordance with Melbourne Police Department Policy and Florida State Statute 112.532**. Please be aware that you are not to discuss the particulars of this investigation with anyone except your Union Representatives and legal counsel.


Employee Signature

Date: 4/8/19


Delivered By

Date: 4/8/19

MAR 29 2019

Chief of Police

**CITIZENS COMPLAINT FORM
MELBOURNE POLICE DEPARTMENT
650 NORTH APOLLO BLVD.
MELBOURNE, FLORIDA 32935
(321) 608-6731**

Control Number MP190018956Taylor

Complainant's Last Name

JOSHUA

First Name

R

M. I.

3209 Regina

Complainant's Home Address

Court32935321-987-8455

Phone

Cabana Shores

Place of Employment

5240 N Hwy 1

Work Address

32940321-254-2004

Work Phone

Johnson Middle School

Location of Incident (s)

~ 4:00pm

Date and Time of Occurrence

3/28/19OFFICER PEREZ

Name of Police Officer (s):

I.D. Number (s):

UNKNOWN

NOT TALL, BLACK HAIR, SCHOOL ASSIGNED
If Unknown Provide Description OFFICER

DETAILS OF COMPLAINT (to be completed by complainant):

I JOSH TAYLOR WAS CONTACTED BY OFFICER PEREZ THAT I NEEDED TO COME SPEAK TO HIM ABOUT MY SON [REDACTED]. I WAS IN THE P-Lot, SO I IMMEDIATELY CAME IN. I WAS ESCORTED TO OFFICER PEREZ'S OFFICE WHERE I FOUND THE DOOR LOCKED. INSIDE WAS OFFICER PEREZ & MY SON [REDACTED] ALCONE. OFFICER PEREZ EXPLAINED TO ME HE HEARD MY SON [REDACTED] HAD SENT PICTURES OF A FEMALE STUDENT TO OTHER STUDENTS. HE ALSO ADMITTED THAT HE HAD NO EVIDENCE OF THESE MESSAGES AS THE STUDENTS HAD DELETED THEM. IN ADDITION THERE WERE NO MESSAGES ON [REDACTED] PHONE. OFFICER PEREZ THEN EXPLAINED THAT [REDACTED] DID ADMIT HE HAD PICTURES AND SHOWED THEM TO OFFICER PEREZ. OFFICER PEREZ CHARGED [REDACTED] W/ CIVIL SEXTING F.S. 847.0141(1)b. HERE IS THE PROBLEM, MY SON NEVER SENT THESE PICTURES. MY SON NEVER SHOWED ANYONE THESE PICTURES. MY SON NEVER EVEN LOOKED AT THE PICTURES AGAIN AFTER THE GIRL SENT THEM TO HIM. MY SON COOPERATED FULLY WITH OFFICER PEREZ. ON THE FLIP SIDE LET ME EXPLAIN WHY I FEEL OFFICER PEREZ

* I AM SEEKING WITHDRAWAL OF THIS TICKET. MY SON
DID NOTHING WRONG, I WILL SEEK LEGAL ACTION TO
PROTECT MY SON IF I CANNOT RESOLVE THIS MATTER THRU
CHAIN OF COMMAND
FAST.

CITIZENS COMPLAINT FORM
MELBOURNE POLICE DEPARTMENT
650 NORTH APOLLO BLVD.
MELBOURNE, FLORIDA 32935
(321) 608-6731

IS OUT OF LINE. OFFICER PEREZ PLACED MY SON ([REDACTED] YEARS OLD)
IN A CUSTODIAL SETTING IN A LOCKED ROOM. AT NO POINT DID HE
READ [REDACTED] HIS MIRANDA RIGHTS WITHIN THE CUSTODIAL SETTING.
MY SON FELT TRAPPED. THE PICTURES WERE IN AN APP MY SON HAD TROUBLE
FIGURING OUT THE PASSWORD FOR AND OFFICER PEREZ PRESSURED
[REDACTED] TO FIGURE THE PASSWORD OUT OR HE WOULD BE REIMMANDED.
IN ADDITION OFFICER PEREZ NEEDED TO FINGERPRINT [REDACTED]. OFFICER
PEREZ DID NOT HAVE HIS INK SO ESCORTED MY SON [REDACTED]
TO THE PARKING LOT WHERE HE PROCEEDED TO
FINGERPRINT [REDACTED] ON THE TRUNK OF HIS PATROL CAR
IN FRONT OF SEVERAL OTHER STUDENTS. I TOLD THE OFFICER
HE WAS WRONG FOR DOING THIS IN FRONT OF STUDENTS
AND NOW RUMORS WILL START. OFFICER PEREZ JUST RESPONDED
HE WILL BE FINE AS LONG AS HE KEEPS HIS MOUTH SHUT.

Name of Person Assisting

Reason for Assistance

Accepting Officer

Date and Time

I, Josh Taylor, under penalty of perjury, declare that the foregoing "Citizen
Complaint Form" and the facts stated therein are true.

I realize that it may become necessary, during the investigation of this complaint, for me to meet with
member(s) of the Melbourne Police Department to discuss this complaint, either in the presence or
absence of the accused Department member (s) at the discretion of the Department. I hereby accept the
premise that if any action is initiated through a court administrative hearing, as a result of my complaint,
my testimony before these hearings may be required. I hereby agree to make myself available to the
aforementioned court or administrative hearing when required to do so.

Signature of Complainant

Sworn to and subscribed before me this day of 20 March, 2014. By Joshua Taylor, who is
personally known to me or has produced a driver's license/identification card/passport # FL DL
1400436772250 as identification.

Amy Wicks

Notary Public Name (printed)

Notary Signature



Melbourne Police Department

Sexting Citation

COPY

Date and Time Violation Occurred 3/28/19 @ 1605 HRS				Date of Citation 3/28/19				Agency Report Number MP191018956				
Address of Occurrence 2155 CROWN RD. Melbourne FL 32935												
Subject Name (Last, First, Middle) [REDACTED]								SSN# [REDACTED]				
DOB [REDACTED]	Sex M	Race W	Skin FMR	Ht. 506	Wt. 104	Hair BRN	Eyes HPR	DL# or ID# [REDACTED]				
Address (Street, Apt. # City, Zip) [REDACTED]												
Home# [REDACTED]		Cell#		Work#		Other contact# (Relative, Neighbor, E-mail) FATHER: JOSHUA TAYLOR						
Place of Birth BREVARD CO.			Occupation/Employer/School JOHNSON MIDDLE SCHOOL - STUDENT						Scars/Marks/Tattoos [REDACTED]			
Sexting (Non-Criminal Violation)				Statute Violation F.S. 847.0141(1)				Subsection (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>				
<p>You promise to appear before the juvenile court on the date, time and at the location required. It is also understood that if you complete 8 hours of qualifying community service work, pay a \$60.00 civil penalty, or participate in, if locally available, a cyber-safety program within the first 30 days after receiving this citation, you may not be required to appear in juvenile court. Initial: [REDACTED]</p> <p>To determine the date, time, and location of your required appearance in juvenile court you must contact the office of the Clerk of the Court, 2825 Judge Fran Jamieson Way, Melbourne, Florida 32940, or telephone them at 321-637-5413. Initial: _____</p> <p>You have received a notice of a non-criminal violation pursuant to Florida Statute §847.0141. A second violation of this statute is a misdemeanor of the first degree, punishable by up to one (1) year in a detention facility or probation until you are 19 years old. A third violation of this statute is a felony of the third degree, punishable by up to five (5) years in a detention facility or probation until you are 19 years old. Initial: [REDACTED]</p> <p>If your behavior under this statute is deemed a sexually motivated offense, a possible future consequence is that you could be involuntarily committed as a sexually violent predator upon the completion of your sentence, pursuant to Chapter 394 of the Florida Statutes. To be deemed a sexually motivated offense, the State would have to prove beyond a reasonable doubt that such offense was sexually motivated. A second possible consequence is you could be required to register as a sexual offender pursuant to Florida Statute §943.0435. Initial: [REDACTED]</p>												
Parent/Legal Custodian (Juvenile Only) [Signature]				Address 3609 REGINA CT, Melbourne				Phone # Home/Work/Cell				
Printed Name and Signature of Person Released to/Contacted JOSHUA R. TAYLOR										Driver License/ID# T4160.436.77.255-0		Relationship FATHER
Subject Signature and Date [REDACTED]								Right Thumb Print				



88 2019-0031

**OFFICE OF CHIEF OF POLICE
DAVID B. GILLESPIE**

To: Marc, Hetal Date: 3/29

Subject: Compl - Josh Taylor

Please assign as an ST



MELBOURNE POLICE DEPARTMENT

David Gillespie, Chief of Police

OFFICE OF THE CHIEF OF POLICE

TO: David Gillespie
Chief of Police

1300 5/9/19 Approved

David Waltemeyer
Deputy Chief of Police

De 4384 Approved

Marc Claycomb
Special Operations Commander

ME 4306 Approved

Cheryl Trainer
Special Operations Lieutenant

CT 301 Approved

FROM: Jeffrey Rau
Community Services Sergeant

JK 331

DATE: May 7th, 2019

SUBJECT: Supervisory Investigation SI 2019-004

Officers Involved: School Resource Officer Jesus Lopez #389

Complainant: Joshua Taylor
3209 Regina Court
Melbourne FL, 32935
(321)-987-8455

Complaint: Mr. Joshua Taylor filed a citizen's complaint against School Resource Officer Jesus Lopez alleging on March 28th, 2019 Officer Lopez improperly detained and questioned his son, [REDACTED] for a sexting violation. In Mr. Taylor's written complaint, he believes the manner in which his son was questioned is considered a custodial interrogation and he should have been provided his Miranda warnings. He further states in his complaint that Officer Lopez wrongfully fingerprinted his son in front of the school at the patrol vehicle.

Complainant Interview: On 04/17/209 at approximately 0921 hrs., Mr. Taylor came to the Melbourne Police Departments Headquarters, located at 650 N. Apollo Blvd, for an interview. I met Mr. Taylor and escorted him to the conference table in the Lieutenants area. I explained to Mr. Taylor that I was Officer Lopez's immediate supervisor and I had been assigned to conduct a supervisor inquiry into his complaint. During the interview with Mr. Taylor, he stated the following:

On April 8th, his son [REDACTED] was summoned to Officer Lopez's office located in Johnson Junior High School. [REDACTED] was questioned about photographs he had on his phone of a naked

juvenile female. Mr. Taylor stated [REDACTED] told him Officer Lopez demanded he show him the pictures on his phone and when he couldn't remember the passcode, threatened to call his dad if he could not get into his phone. He also stated [REDACTED] was interviewed in Officer Lopez's office which is a locked room and [REDACTED] was never informed of his Miranda Warnings or advised he was free to leave the room at any time. Mr. Taylor stated he believed the area where his son was questioned and the manner of questioning is considered a custodial interrogation and that he should have been notified of the incident prior to Officer Lopez questioning [REDACTED].

Mr. Taylor advised he was eventually contacted by Officer Lopez about the incident and was also brought to Officer Lopez's office. Once in the office, Mr. Taylor asked Officer Lopez if he could give [REDACTED] a warning for this incident rather than issuing the sexting citation. He said Officer Lopez refused to give a warning and issued [REDACTED] the sexting citation which he felt the officer should have used his discretion and issued a warning. In the end of the incident, Officer Lopez escorted Mr. Taylor and [REDACTED] out to the front of his patrol vehicle where [REDACTED] was fingerprinted. Mr. Taylor said this should not have been done at the patrol car due to other students out front who witnessed this and caused more embarrassment for his son. When he questioned Officer Lopez about fingerprinting at the patrol car and that now everyone would know about the incident, he said Officer Lopez responded with "he will be fine as long as he keeps his mouth shut".

During the interview with Mr. Taylor he did advise he was not aware of the sexting law and that he believes [REDACTED] was also not aware there was a law which prevents the sending or possession of photographs or video of any minor which depicts nudity. I informed Mr. Taylor that Officer Lopez puts on a presentation at the beginning of the year for all students at Johnson Junior High in which he talks about the sexting and goes in depth about the details of the law.

I asked Mr. Taylor if [REDACTED] had any issues with Officer Lopez prior to this incident or after this incident which he stated "no". I asked Mr. Taylor what he would like to see happen with this complaint to which he said "I had to pay \$750.00 for an attorney for this incident and if Officer Lopez violated the Miranda Warnings, he should have to pay the same amount like he did". He also said he filed this complaint in the hopes he could get the ticket dismissed. I explained to Mr. Taylor that the ticket had been sent to the justice system and there would be no way for me to dismiss it even if I could. Mr. Taylor stated that was the reason he came to the police department the day his son was issued the citation was in hopes by filing the complaint the day it was issued it would prevent the citation from entering the system and it could be dismissed. I explained to Mr. Taylor requesting a court date and presenting the argument in front of a judge is the proper avenue to address the citation.

Officer Interview: On 4/17/2019 at approximately 1356 hrs., I met with Officer Lopez at his office located in Johnson Junior High. I explained I was conducting a supervisor inquiry in reference to a sexting citation he issued on 3/28/2019 to [REDACTED]. During the interview with Officer Lopez, he stated the following:

On 3/28/2019 he was made aware of a possible fight to happen which involved [REDACTED] over naked pictures of a minor he had stored in his cell phone. He summoned for [REDACTED] to respond to his office to discuss the accusation. [REDACTED] came to Officer Lopez's office where,

according to his report” ██████ sat four feet from the unlocked door with no obstructions blocking him from exiting the office. Officer Lopez asked ██████ if he knew why he was summoned to his office and ██████ said “is this about the pictures in my phone?”. Officer Lopez said it was. ██████ said he dated a girl for a couple weeks in early February and she had sent him pictures of her in different stages of nudity. Officer Lopez asked if he still had the photographs in his phone to which ██████ stated yes. Officer Lopez asked ██████ if he could see the pictures to which ██████ said yes but appeared to be hesitant to show them. Officer Lopez stated at this time he asked ██████ if he wanted to call his dad to which ██████ stated no. ██████ opened a hidden calculator application on his phone which contained several pictures of a minor female in different stages of nudity. Officer Lopez asked ██████ if he had reported these pictures to law enforcement or parent/guardian to which he stated he did not.

Upon seeing the photographs, Officer Lopez contacted Mr. Taylor to respond to the office. Officer Lopez issued ██████ a sexting citation for possession of photographs of a minor depicting nudity with failure to report the pictures to a parent/guardian or law enforcement.

Throughout the interview, I asked Officer Lopez the following questions in response to the claims by the complainant:

Q: Was the door to your office ever locked?

A: No, the door to his office cannot lock from the inside. In accordance with the district security policy, all doors lock from the outside. (I confirmed the door cannot be locked from the inside)

Q: Did you advise ██████ he was free to leave at any time?

A: No, non-criminal citation.

Q: Did you ask ██████ to look into his phone?

A: Yes, he said he had pictures in his phone.

Q: Did you ever have control of ██████’s phone?

A: No, ██████ had the phone in his possession the whole time.

Q: Did ██████ have trouble opening the app?

A: He put the wrong code in first time, opened the app on the second try.

Q: Did you make any threats to call his dad if he could not open the phone?

A: Absolutely not.

Q: Do you think ██████ knew he should not have had the pictures in his phone?

A: Yes, he was aware. Myself and Assistant Principal put on a presentation at the beginning of the year with one subject we address are sexting violations. He also had the photographs hidden in a secret application on his phone which would indicate he knew he should not have them.

Q: Do you know if [REDACTED] was present during this presentation?

A: Will have to check with administration to see if he was present that day. All students attended the presentation who attended school that day.

Q: Did you escort Mr. Taylor and [REDACTED] to your patrol car in front of the school?

A: Yes, I leave my fingerprint pad in the patrol car. I needed to get [REDACTED]'s thumbprint for the sexting citation.

Q: Were there any other students outside when you brought [REDACTED] to the patrol car?

A: A few students sitting on the wall.

Q: Did Mr. Taylor say anything about fingerprinting at the patrol car?

A: He said now everyone in the school is going to know what is going on.

Q: Did you respond to the last answer?

A: yes, I said no one is going to know unless [REDACTED] says something.

Interview with Assistant Principal Tracy: On 4/17/2019 I met with Assistant Principal Tracy from Johnson Junior High School. Ms. Tracy advised she and Officer Lopez put on a presentation for both the 7th and 8th grade students in the beginning of the year. Ms. Tracy stated the presentation for the 7th grade class was put on either August 14th or August 16th. Ms. Tracy advised the students attended the presentation during their science class which for [REDACTED] was Ms. Abrams 2nd period class. Ms. Tracy was able to provide me a printout of [REDACTED]'s attendance record which shows he was present at school and during the second period timeframe on both August 14th and August 16th.

Interview with Assistant State Attorney Kimberly Musselman: On 4/17/2019 at approximately 1523 hrs., I contacted Assistant State Attorney Kimberly Musselman via the telephone. I explained the incident to her and asked her if a student is called to a School Resource Officers office for an interview concerning sexting would the questioning be considered protected under the Miranda Warnings. She stated sexting is a civil citation and the questioning of a person for anything less than a criminal offense is not considered a custodial interrogation and would not require Miranda Warnings.

Conclusion: I have completed my investigation and have determined Officer Lopez **did not** commit any policy violations during his investigation of sexting incident. Officer Lopez did not violate [REDACTED] rights when he questioned him in his office nor was he required to advise [REDACTED] of his Miranda warnings as this incident was not criminal in nature. This was verified by Assistant State Attorney Kimberly Musselman. There is also no policy violation when Officer Lopez fingerprinted [REDACTED] at his patrol car in front of the school.

I recommend Officer Jesus Lopez be exonerated from any policy violations as it pertains to this complaint.

On May 8th at 0830 hrs., I contacted the complainant Mr. Joshua Taylor and advised him the investigation revealed Officer Lopez did not violate any department policies during this incident.

ATTACHMENTS

1. Complaint Packet
2. Case Report
3. Supplement Report
4. Sexting Citation (copy)
5. PowerPoint Slide of presentation Officer Lopez put on
6. Absence sheet for Dominic Taylor
7. Florida statute 847.0141 Sexting

MELBOURNE POLICE DEPARTMENT



650 North Apollo Blvd

Melbourne, FL 32935

WWW.MELBOURNEFLORIDA.ORG

Phone

Fax

19-18956

Supplement No
ORIG

Reported Date

03/28/2019

Rpt/Incident Typ

43

Member#/Dept ID#

LOPEZ, JESUS M

Administrative Information

Agency	MELBOURNE POLICE DEPARTMENT			CR No	19-18956	Supplement No	ORIG	Reported Date	03/28/2019	Reported Time	16:38
Incident No	190870409		Status	Offense Report		Rpt/Incident Typ LEWD LASCIVIOUS					
Location										City	
2155 CROTON RD										Melbourne	
ZIP Code	32935	Rep Dist	902	Area	03	Beat	03	From Date	03/28/2019	From Time	16:05
								To Date	03/28/2019	To Time	16:05
Member#/Dept ID#						Assignment		Entered By			
389/LOPEZ, JESUS M						SCHOOL RESOURCE OFFICER		389			
Assignment				RMS Transfer		Prop Trans Stat		Approving Officer			
SCHOOL RESOURCE OFFICER				Successful		Successful		331			
Approval Date		Approval Time									
04/04/2019		08:58:48									
Case Status											
CLOSED - OTHER											
Other		Juvenile									
Yes		Yes									
# Offenses	Offense		Description				Complaint Type				
1	847.0141		SEXTING - MINOR TO M				9				

Person Summary

Invl	Invl No	Type	Name	MNI
OTH	1	I	HOOGEWERF, MICHELLE	849719
Race	Sex	DOB		
Invl	Invl No	Type	Name	MNI
PAR	1	I	TAYLOR, JOSHUA	258369
Race	Sex	DOB		
W	M	06/25/1977		
Invl	Invl No	Type	Name	MNI
SUS	1	I		
Race	Sex	DOB		
W	M			

Summary Narrative

Johnson Middle School

Sexting (minor to minor)

Sexting Citation issued

19-18956

Supplement No
ORIG**MELBOURNE POLICE DEPARTMENT****Other 1: HOOGEWERF, MICHELLE**

Involvement Other	Invl No 1	Type Individual	Name HOOGEWERF, MICHELLE
MNI 849719	PRN 1706146		
Type Work/Business	Address JUVENILE DETENTION CENTER		
City SHARPES	State Florida	Date 03/28/2019	
Phone Type Business/Work	Phone No (321) 690-3400	Date 03/28/2019	

Parent 1: TAYLOR, JOSHUA

Involvement Parent	Invl No 1	Type Individual	Name TAYLOR, JOSHUA						
MNI 258369	Race White	Sex Male	DOB 06/25/1977	Age 41	Juvenile? No	Height 5'09"	Weight 160#	Hair Color Brown	Eye Color Brown
Vic/Arr/Off Rel BIOLOGICAL PARENT		PRN 1706147							
Type Home	Address 3209 REGINA CT								
City Melbourne	State Florida	ZIP Code 32935	Date 03/28/2019						
Type Operator License	ID No T460436772250	OLS Florida							
Phone Type Cell	Phone No (321) 987-8455	Date 03/28/2019							

Suspect 1:

Involvement Suspect	Invl No 1	Type Individual	Name [REDACTED]						
MNI [REDACTED]	Race White	Sex Male	DOB [REDACTED]	Age [REDACTED]	Ethnicity Not of Hispanic origin	Juvenile? Yes	Height 5'06"	Weight 104#	
Hair Color Brown	Eye Color Hazel	Skin Fair	PRN 1706148						
Type Home	Address [REDACTED]								
City Melbourne	State Florida	ZIP Code 32935	Date 03/28/2019						
Type Social Security Number	ID No [REDACTED]								
Phone Type Home	Phone No [REDACTED]	Date 03/28/2019							

Mark Type None							
Relationship Father	Name TAYLOR, JOSHUA					Race White	Sex Male
DOB 06/25/1977	Address 3209 REGINA CT						
City Melbourne	State Florida	ZIP Code 32935	Phone Type Cell	Phone No (321) 987-8455			
Employer/School LB JOHNSON MIDDLE SCHOOL						Position/Grade 7	
Location 2155 CROTON RD						City Melbourne	
State Florida	ZIP Code 32935						

Modus Operandi

Gang Act? No	Premise Type School	Nbr Premises 1	Arson Inhabited? No
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Narrative

I, Officer J. Lopez, am the School Resource Officer (SRO) at L. B. Johnson Middle School located at 2155 Croton Road in Melbourne. On Thursday, March 28, 2019, I received information regarding a fight to occur between two male students over a rumored assumption that one had nude photographs of the others female friend. During the course of mediation, it was reported that [REDACTED] ([REDACTED] years old) had photographs stored in his cell

Report Officer 389/LOPEZ, JESUS M	Printed At 04/16/2019 10:24	Page 2 of 3
---------------------------------------------	---------------------------------------	-------------

MELBOURNE POLICE DEPARTMENT**Narrative**

phone depicting a minor female in various stages of nudity and transmitted the photographs to his friends.

Based on the tip, I made contact with [REDACTED]. I interviewed [REDACTED] in my office. [REDACTED] sat in chair approximately four feet from the unlocked door with no obstructions hindering the path. Upon speaking with [REDACTED] he readily admitted to possessing nude photographs of a girl he dated for two weeks in February 2019, but denied transmitting them. [REDACTED] advised he has been in possession of said photographs since the end of February.

[REDACTED] willfully opened a secret app on his cell phone disguised as a calculator app to access the pictures. The pictures depicted a minor female scantily clad in underwear and bra, and others of her bare breasts that he claims the female in the photograph sent him.

[REDACTED] admitted he made no effort to report the photographs to his parent(s) or to a school or law enforcement official.

Contact was made Michelle Hoogerwerf at the Department of Juvenile Justice (DJJ), who confirmed that [REDACTED] has no prior violations.

Based on this investigation, probable cause was established to charge [REDACTED] with Sexting, Florida State Statute 847.141 (b), a non-criminal infraction. Probable Cause supports that on March 28, 2019 at approximately 1605 hours, [REDACTED] knowingly possessed photographs that were allegedly transmitted or distributed to him by another minor of a person which depicts nudity and took no reasonable steps to report the photographs to his legal guardian or to a school or law enforcement official.

Contact was made with [REDACTED]'s father, Joshua Taylor, who met me at that the school. [REDACTED] was issued a Sexting Citation. [REDACTED] deleted the photographs off his phone and was released to his father.

No further action taken.

MELBOURNE POLICE DEPARTMENT



650 North Apollo Blvd

Melbourne, FL 32935

WWW.MELBOURNEFLORIDA.ORG

Phone

Fax

19-18956

DRAFT

Reported Date

04/08/2019

Rpt/Incident Typ

43

Member#/Dept ID#

LOPEZ, JESUS M

Supplement No
0001

Administrative Information

Agency	MELBOURNE POLICE DEPARTMENT	CR No	19-18956	Supplement No	0001	Reported Date	04/08/2019	Reported Time	15:04
Incident No	190870409	Status	Offense Report	Rpt/Incident Typ	LEWD LASCIVIOUS				
Location	2155 CROTON RD							City	Melbourne
ZIP Code	32935	Rep Dist	902	Area	03	Beat	03	From Date	03/28/2019
						From Time	16:05	To Date	03/28/2019
						To Time	16:05		
Member#/Dept ID#	389/LOPEZ, JESUS M			Assignment	SCHOOL RESOURCE OFFICER			Entered By	389
Assignment	SCHOOL RESOURCE OFFICER			RMS Transfer	Supplement Transfer Complete			Prop Trans Stat	Successful
Approving Officer	671		Approval Date	04/16/2019		Approval Time	09:42:14		
Case Status	CLOSED - OTHER								
Other	Yes								
# Offenses	1	Offense	847.0141		Description	SEXTING - MINOR TO M		Complaint Type	9

Summary Narrative

Supplement Report

Sexting (Minor-Minor)

Non-Criminal Sexting Citation Issued

Other 1: TRACY, KAVITHA

Involvement	Invl No	Type	Name						
Other	1	Individual	TRACY, KAVITHA						
MNI	836395	Race	Unknown	Sex	Female	DOB	12/13/1983	Age	35
						Juvenile?	No	Hair Color	Black
						Eye Color	Brown	RMS Transfer	Successful
Vic/Art/Off Rel	PRN								
OTHER KNOWN	1706976								
Type	Work/Business		Address						
			2155 CROTON RD						
City	Melbourne		State	Florida	ZIP Code	32935	Date	04/08/2019	
Type	Operator License		ID No	T620513839530			OLS	Florida	
Phone Type	Business/Work		Phone No	(321) 242-6430			Date	04/08/2019	

Other 2: STATON, NISHA

Involvement	Invl No	Type	Name						
Other	2	Individual	STATON, NISHA						
MNI	850411	Race	Black	Sex	Female	RMS Transfer	Successful	PRN	1706977
Type	Work/Business		Address						
			5225 DEWITT AV						
City	COCOA FL		State	Florida	ZIP Code	32927	Date	04/08/2019	
Phone Type	Business/Work		Phone No	(321) 690-3400			Date	04/08/2019	

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Other 3:

Involvement Other	Invl No 3	Type Individual	Name [REDACTED]						
MNI [REDACTED]	Race White	Sex Male	DOB [REDACTED]	Age [REDACTED]	Ethnicity Not of Hispanic origin	Juvenile? Yes	Height 5'06"	Weight 104#	
Hair Color Brown	Eye Color Hazel	Skin Fair	RMS Transfer Successful	Vic/Arr/Off Rel FRIEND					
Type Home	Address [REDACTED]								
City Melbourne	State Florida	ZIP Code 32935	Date 04/08/2019						
Phone Type Home	Phone No [REDACTED]	Date 04/08/2019							

Parent 1: VALLE, MARISELA DENISSE

Involvement Parent	Invl No 1	Type Individual	Name VALLE, MARISELA DENISSE					
MNI 850409	Race White	Sex Female	DOB 02/14/1978	Age 41	Ethnicity Not of Hispanic origin	Juvenile? No	Hair Color Brown	
Eye Color Brown	Skin Fair	RMS Transfer Successful	Vic/Arr/Off Rel BIOLOGICAL PARENT		PRN 1706975			
Type Home	Address 2391 BURNS AV							
City Melbourne	State Florida	ZIP Code 32935	Date 04/08/2019					
Type Operator License	ID No V400540785540	OLS Florida						
Phone Type Cell	Phone No (321) 697-2981	Date 04/08/2019						

Suspect 1:

Involvement Suspect	Invl No 1	Type Individual	Name [REDACTED]					
MNI [REDACTED]	Race White	Sex Female	DOB [REDACTED]	Age [REDACTED]	Ethnicity Not of Hispanic origin	Juvenile? Yes	Height 5'03"	
Weight 112#	Hair Color Brown	Eye Color Brown	Skin Fair	RMS Transfer Successful				
Type Home	Address [REDACTED]							
City Melbourne	State Florida	ZIP Code 32935	Date 04/08/2019					
Phone Type Home	Phone No [REDACTED]	Date 04/08/2019						

Modus Operandi

Gang Act? No	Premise Type School	Nbr Premises 1	Arson Inhabited? No
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Narrative

I, Officer J. Lopez, am a School Resource Officer (SRO) assigned to L. B. Johnson Middle School, 2155 Croton Road.

On Monday, April 08, 2019, I conducted a follow-up investigation into a Sexting case. Contact was made with [REDACTED] who was identified as the minor female in a photograph possessed by [REDACTED] on 3/28/19, which depicts nudity. Present during the interview was Assistant Principal/Dean Kavitha Tracy.

[REDACTED] admitted to taking the partially "nude selfies" using her cell phone and transmitting the images to, her then boyfriend, [REDACTED] at his request.

[REDACTED] understood her actions were inappropriate and accepted full responsibility for her actions.

I spoke Nisha Staton at the Juvenile Detention Center(JDC), who confirmed [REDACTED] has no prior violations and is eligible for a Sexting Citation.

Based on [REDACTED]'s admission regarding her involvement, she was issued a non-criminal Sexting Citation and released to her parent, Marisela Valle, without incident.

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Narrative

It should be noted that on 3/28/19, [REDACTED] was issued a non-criminal Sexting Citation for possessing photographs transmitted to him of another minor which depicts nudity and took no reasonable steps to report the photographs to a legal guardian or to a school or law enforcement official.

No further action taken.

Legal Consequences Officer Lopez

784.011 Assault.—(1) An “assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

(2) Whoever commits an assault shall be guilty of a misdemeanor of the second degree,

784.03 Battery; felony battery.—(1)(a) The offense of battery occurs when a person:1. Actually and intentionally touches or strikes another person against the will of the other; or

2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2), a person who commits battery commits a misdemeanor of the first degree

Legal Consequences Officer Lopez

784.081 Assault or battery on school board officials or employees;.—

(2) Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any school board employee: when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:(a) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(b) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(c) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(d) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Legal Consequences Officer Lopez

877.13 Educational institutions or school boards; penalty for disruption.—(1) It is unlawful for any person:(a) Knowingly to disrupt or interfere with the lawful administration or functions of any educational institution, school board, or activity on school board property in this state.

(b) Knowingly to advise, counsel, or instruct any school pupil or school employee to disrupt any school or school board function, activity on school board property, or classroom.

(c) Knowingly to interfere with the attendance of any other school pupil or school employee in a school or classroom.

(d) To conspire to riot or to engage in any school campus or school function disruption or disturbance which interferes with the educational processes or with the orderly conduct of a school campus, school, or school board function or activity on school board property.

(2) This section shall apply to all educational institutions, school boards, and functions or activities on school board property; however, nothing herein shall deny public employees the opportunity to exercise their rights pursuant to part II of chapter 447.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Legal Consequences Officer Lopez

877.03 Breach of the peace; disorderly conduct.—

Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in **brawling or fighting**, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree.

Legal Consequences Officer Lopez

812.014 Theft.—(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

- (a) Deprive the other person of a right to the property or a benefit from the property.
- (b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.
- (c) It is grand theft of the third degree and a felony of the third degree, if the property stolen is:1. **Valued at \$300 or more.**

Legal Consequences Officer Lopez

836.10 Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism; punishment; exemption from liability.—(1) Any person who writes or composes and also sends or procures the sending of any letter, inscribed communication, or **electronic communication**, whether such letter or communication be signed or anonymous, to any person, containing a threat to kill or to do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of the family of the person to whom such letter or communication is sent, or any person who makes, posts, or transmits a threat in a writing or other record, including an electronic record, to conduct a mass shooting or an act of terrorism, **in any manner that would allow another person to view the threat**, commits a felony of the second degree.

Legal Consequences Officer Lopez

790.163 False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner; penalty.—(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction, or concerning the use of firearms in a violent manner against a person or persons. A person who violates this subsection commits a felony of the second degree.

Legal Consequences Officer Lopez

784.048 Stalking; definitions; penalties.—(1) As used in this section, the term:(a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

Legal Consequences Officer Lopez

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree

Legal Consequences Officer Lopez

847.0141 Sexting; prohibited acts; penalties.—(1) A minor commits the offense of sexting if he or she knowingly:(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors.

Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, and is harmful to minors. A minor does not violate this paragraph if all of the following apply:

1. The minor did not solicit the photograph or video.
2. The minor took reasonable steps to report the photograph or video to the minor's legal guardian or to a school or law enforcement official.
3. The minor did not transmit or distribute the photograph or video to a third party.

Select Year: 2018 ▼ Go

The 2018 Florida Statutes

[Title XLVI](#)
CRIMES

[Chapter 847](#)
OBSCENITY

[View Entire Chapter](#)

847.0141 Sexting; prohibited acts; penalties.—

(1) A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001(9), and is harmful to minors, as defined in s. 847.001(6).

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined in s. 847.001(9), and is harmful to minors, as defined in s. 847.001(6). A minor does not violate this paragraph if all of the following apply:

1. The minor did not solicit the photograph or video.
2. The minor took reasonable steps to report the photograph or video to the minor's legal guardian or to a school or law enforcement official.
3. The minor did not transmit or distribute the photograph or video to a third party.

(2)(a) The transmission or distribution of multiple photographs or videos prohibited by paragraph (1)(a) is a single offense if the photographs or videos were transmitted or distributed within the same 24-hour period.

(b) The possession of multiple photographs or videos that were transmitted or distributed by a minor prohibited by paragraph (1)(b) is a single offense if the photographs or videos were transmitted or distributed by a minor in the same 24-hour period.

(3) A minor who violates subsection (1):

(a) Commits a noncriminal violation for a first violation. The minor must sign and accept a citation indicating a promise to appear before the juvenile court. In lieu of appearing in court, the minor may complete 8 hours of community service work, pay a \$60 civil penalty, or participate in a cyber-safety program if such a program is locally available. The minor must satisfy any penalty within 30 days after receipt of the citation.

1. A citation issued to a minor under this subsection must be in a form prescribed by the issuing law enforcement agency, must be signed by the minor, and must contain all of the following:

- a. The date and time of issuance.
- b. The name and address of the minor to whom the citation is issued.
- c. A thumbprint of the minor to whom the citation is issued.
- d. Identification of the noncriminal violation and the time it was committed.
- e. The facts constituting reasonable cause.
- f. The specific section of law violated.
- g. The name and authority of the citing officer.
- h. The procedures that the minor must follow to contest the citation, perform the required community service, pay the civil penalty, or participate in a cyber-safety program.

2. If the citation is contested and the court determines that the minor committed a noncriminal violation under this section, the court may order the minor to perform 8 hours of community service, pay a \$60 civil penalty, or participate in a cyber-safety program, or any combination thereof.

3. A minor who fails to comply with the citation waives his or her right to contest it, and the court may impose any of the penalties identified in subparagraph 2. or issue an order to show cause. Upon a finding of contempt, the

court may impose additional age-appropriate penalties, which may include issuance of an order to the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver license or driving privilege of, the minor for 30 consecutive days. However, the court may not impose incarceration.

(b) Commits a misdemeanor of the first degree for a violation that occurs after the minor has been found to have committed a noncriminal violation for sexting or has satisfied the penalty imposed in lieu of a court appearance as provided in paragraph (a), punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Commits a felony of the third degree for a violation that occurs after the minor has been found to have committed a misdemeanor of the first degree for sexting, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(4) This section does not prohibit the prosecution of a minor for a violation of any law of this state if the photograph or video that depicts nudity also includes the depiction of sexual conduct or sexual excitement, and does not prohibit the prosecution of a minor for stalking under s. [784.048](#).

(5) As used in this section, the term “found to have committed” means a determination of guilt that is the result of a plea or trial, or a finding of delinquency that is the result of a plea or an adjudicatory hearing, regardless of whether adjudication is withheld.

(6) Eighty percent of all civil penalties received by a juvenile court pursuant to this section shall be remitted by the clerk of the court to the county commission to provide training on cyber-safety for minors. The remaining 20 percent shall remain with the clerk of the court to defray administrative costs.

History.—s. 1, ch. 2011-180; s. 85, ch. 2012-5; s. 3, ch. 2015-133.